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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

R.W., individually and on behalf of his marital community,

Cause No. 4:18-cv-05089-MKD

RESPONSE TO DEFENDANTS' MOTION IN LIMINE

COLUMBIA BASIN COLLEGE, a public institution of higher education,; REBEKAH WOODS, in her official capacity; and RALPH REAGAN, in his individual and official capacities,

Defendants.

Plaintiff R.W., by and through his attorneys of record, submits the following response to Defendant's Motions in Limine (ECF 327).

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RESPONSE TO DEFENDANTS' MOTION IN LIMINE -

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1 **A. The Court Should (1) Admit Witness Testimony and Exhibits**
2 **Previously Admitted During the August 2022 Jury Trial; and (2)**
3 **Preclude Any Testimony or Exhibits That Are Cumulative of Prior**
4 **Evidence.**

5
6 No objection.

7 **B. The Court Should Enforce the Order and Presentation of**
8 **Witnesses.**

9
10 No objection.

11 **C. The Court Should Admit Exhibits Containing Legal Conclusions**
12 **for the Limited Purpose of Providing Context for Various Steps in**
13 **the Interim Trespass and Student Conduct Proceedings.**

14 Plaintiff objects in-part to the motion in limine. Plaintiff agrees that witnesses
15 cannot testify to legal conclusions. However, a witness may testify to the source and
16 scope of their authority. *See Johns v. Bay State Abrasive Prods. Co.*, 89 F. Supp.
17 654, 663 (D. Md. 1950). This may include the scope of authority for a state actor.
18 *See Maryland v. Dent*, 2019 WL 1795531, at *4 (D. Md. Apr. 23, 2019)
19 (unpublished); *see also Texas v. Kleinert*, 855 F.3d 305, 315 (5th Cir. 2017) (“FBI
20 Special Agent Dennis May, who created the task force, testified that Kleinert’s
21 ‘authority to act as a federal officer was not limited to the [memorandum]; ... he had
22 a broader scope of authority.’”).

23 In this case, the scope of Defendant Reagan’s authority arises from regulation.
24 Wash. Admin. Code § 132S-100. While eliciting testimony regarding legal
25 conclusions would not be proper, eliciting testimony regarding a state actor’s scope



1 of authority is proper, even if such authority derives of policies which are codified
2 or promulgated by regulation. As a result, the Court should deny the motion in limine
3 to the extent that it would infringe upon such testimony.
4

5 **D. The Court Should Preclude Plaintiff from Offering Any Lay Opinion
6 That He Would Have Successfully Completed Winter Quarter 2017.**

7 The Court should deny this motion to the extent that it seeks to limit testimony
8 regarding whether R.W. could have completed his classes absent the trespass and
9 sanctions imposed by Defendants, and whether R.W. would have received failing
10 grades in all of the courses had he not been precluded from taking final examinations.
11

12 Defendant cites *Grimwood v. Univ. of Puget Sound, Inc.*, 110 Wash. 2d 355, 365,
13 753 P.2d 517, 521 (1988)¹ and *Schuler v. Chron. Broad. Co. Inc.*, 793 F.2d 1010,
14 1012 (9th Cir. 1986). In both cases, the issue was whether the employee was
15 discharged based on deficient performance. *Grimwood*, 753 P.2d at 518 (1988);
16 *Schuler*, 793 F.2d at 1012. In this case, Defendants did not purport to impose
17 sanctions on R.W. based on his academic performance. The sanctions issued by
18 Defendants were based explicitly on his speech made to medical and mental health
19 treatment providers. Such speech is not circular in nature. See *Oyama v. Univ. of*
20
21

22
23
24
25 ¹ Which was abrogated by *Mikkelsen v. Pub. Util. Dist. No. 1 of Kittitas Cnty.*, 189 Wash. 2d 516, 404 P.3d 464 (2017) on other grounds.



1 *Hawaii*, 813 F.3d 850, 866-67 (9th Cir. 2015). As a result, the Court should deny
2 this motion in limine.
3

4 **DATED this 30th day of December, 2024.**

5 *s/Bret Uhrich*
6 _____
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1 CERTIFICATE OF SERVICE

2 I hereby certify that on this 30th day of December 2024, I electronically filed
3 the foregoing with the Clerk of the Court using the CM/ECF System which will
4 send notification of such filing to the following:
5

6 Carl Perry Warring: cwarring@ecl-law.com
7 Andrew David Brown: abrown@ecl-law.com

8 *s/ Bret Uhrich* _____

9 Bret Uhrich

